



Billing Code: 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2010-N174]

[20124-1112-0000-F2]

Draft Environmental Assessment and Safe Harbor Agreement for the Houston Toad within Nine Texas Counties

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: The Environmental Defense Fund (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to a section of the Endangered Species Act of 1973, as amended. The requested permit, which is for a period of 30 years, would authorize incidental take of the endangered Houston toad (*Bufo houstonensis*) as a result of conservation actions, land management, and other land-use activities. We invite the public to review and comment on the permit application and the associated draft Safe Harbor Agreement (Agreement).

DATES: Written comments should be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD-ROM of the documents.

- *Email:* Edith_Erfling@fws.gov. Include “Clear Lake Ecological Services Field Office draft Houston Toad Programmatic SHA/draft EA” in the subject line of the message.

- *Fax:* [Attn: Field Supervisor], 281/488-5882.

- *U.S. Mail:* 17629 El Camino Real, Suite 211, Houston, Texas 77058

- *In-Person Drop-off, Viewing, or Pickup:* Call 281/286-8282 to make an appointment (necessary for view/pickup only) during regular business hours at 17629 El Camino Real, Suite 211, Houston, Texas 77058. [For more information on locations for viewing or obtaining documents, see “Public Availability of Documents” under SUPPLEMENTARY INFORMATION.]

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, at the Service’s Southwest Regional Office, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/248-6651).

SUPPLEMENTARY INFORMATION: Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities to enhance, restore, or maintain habitat benefiting species listed under the Endangered Species Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts

for listed species by assuring property owners they will not be subjected to increased property use restrictions as a result of increased target species abundance due to their efforts to improve conditions for listed species on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

Non-Federal landowners within Austin, Bastrop, Burleson, Colorado, Lavaca, Lee, Leon, Milam, and Robertson Counties, Texas, may be enrolled under the proposed Agreement if it is approved by entering into a Cooperative Agreement with the Applicant. The Cooperative Agreement will include: (1) A map of the property and its legal location; (2) the portion of the property to be enrolled and its acreage; (3) a description of the habitat types that occur on the portion of the property to be enrolled, including accurate descriptions of vegetation, water features, and soil types; (4) current land use practices and existing development; and (5) a detailed account of conservation activities to be undertaken on the portion of the property to be enrolled. After signing a Cooperative Agreement, landowners will receive a certificate of inclusion to document landowners' participation in the Safe Harbor Agreement and convey incidental take authorization from the Applicant to certificate recipients. The Applicant will be responsible for annual monitoring and reporting related to implementation of the Safe Harbor Agreement and Cooperative Agreements and fulfillment of their provisions.

We have worked with the Applicant to design conservation activities expected to have a net conservation benefit to the Houston toad within the nine Texas counties to be covered

under this proposed Agreement. These conservation activities include: (1) Brush management to create desired understory conditions and facilitate restoration of native ground cover; (2) forest enhancement/restoration to create favorable canopy conditions; (3) prescribed burning to restore, create, and maintain desired understory and ground cover conditions; (4) enhancement of existing breeding ponds to provide habitat for breeding adults and emerging toadlets; (5) control of red imported fire ants to maximize successful toadlet survival; (6) creation of new breeding ponds; and (7) headstarting and/or reintroduction of captively bred Houston toads (see section 5 “Conservation Activities” in the draft Agreement).

These conservation activities are expected to: (1) Enhance Houston toad foraging and hibernating habitat; (2) create and enhance Houston toad breeding and toadlet emergence habitat; (3) facilitate Houston toad dispersal through the creation and enhancement of habitat linkages throughout the species’ range; (4) increase Houston toad population numbers through headstarting and reintroduction; and (5) facilitate viable, self-sustaining Houston toad subpopulations.

The incidental take of toads may occur from: (1) Habitat management actions conducted in accordance with the conservation activities in the Agreement, (2) ongoing land use activities that may have an increased chance of taking a toad if toad numbers increase, as expected, and (3) cessation of the conservation activities, return to baseline activities; if enrolled landowners exercise their authorization to do so under the permit.

The impacts of permit issuance and implementation on the human environment are analyzed within the draft Environmental Assessment, in compliance with the National Environmental Policy Act of 1969.

Section 9 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) prohibits “taking” of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authorities

We provide this notice pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 CFR 4371 *et seq.*).

Authority: 16 U.S.C. 1531 *et seq.*

Date: October 13, 2011

Joy E. Nicholopoulos

Acting Regional Director, Southwest Region,,

Fish and Wildlife Service

[FR Doc. 2011-29044 Filed 11/10/2011 at 8:45 am; Publication Date:
11/14/2011]